

IV. REMARKS

Status of the Claims

Claims 1 and 6 are amended to clarify the elements of the claims. No further restriction of the claims is intended. Claims 1-6 are under consideration.

Summary of the Office Action

Claims 1 and 4-6 stand rejected under 35USC102(e) on the basis of the cited reference Kronestedt, U.S. Patent No. 6,308,082. Claims 2 and 3 stands rejected under 35USC112, first paragraph. The Examiner is respectfully requested to reconsider his rejection in view of the following remarks.

Responsive Remarks

Applicant has amended the specification to include the substance of claims 2 and 3. Since the claims themselves are a sufficient disclosure of the claimed elements, there inclusion in the specification does not constitute new matter. The specification therefore, fully supports claims 2 and 3, and applicant submits that the rejection under 35USC112 is avoided.

Applicant submits a copy of form PTO-1449 that was originally submitted with the Information Disclosure Statement filed on July 31, 2000. Consideration of the references cited therein is respectfully solicited.

Discussion of the Cited Reference

A central idea in the present invention is that the channel coding and/or interleaving schemes should be chosen independently for each new connection that is to be set up; even so that when the request for setting up of a connection includes certain QoS parameters that the new connection should fulfil, the decision-making device will take the requested QoS parameters and use them

as a basis for selecting the appropriate, connection-specific channel coding and/or interleaving schemes. The Kronestedt reference suggests that a centralised mode determiner would receive connection quality indications taken from all connections in a cell, but would not use these as such but only take them as inputs to an averaging unit: see column 4, lines 18-28. Based on information that is an average of all independent, channel specific pieces of information, the mode selector makes a single decision that determines the modulation and channel coding method for the whole cell. In column 5, lines 14-16 Kronestedt says it explicitly:

"The selected mode information is thereafter...communicated to all fixed-site transceivers and mobile stations of the cell." Further in column 5, lines 22-23: "...so that all radio links of the cell will operate in the same modulation and channel coding mode."

This represents a significant departure from the subject invention, as defined in independent claims 1 and 6. In the process of the subject invention, there is no blanket modulating and channel coding mode, but parameters for coding and interleaving are selected according to the needs of a particular communication link. The difference between the applicant's invention and the Kronestedt reference is significant. The "modulation and channel coding" of Kronestedt is not the equivalent of the "channel coding and/or interleaving" in the pending claims. The connection quality reports that go to the mode determiner in Kronestedt are not the same as "request messages" as in the pending claims. In addition, the contents of such connection quality reports is not equivalent of "Quality of Service parameters". A person skilled in the art would not consider these terms to be mutually interchangeable as suggested by the Examiner.

The Issue of Anticipation

It is well settled that a claim is anticipated, "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (See CHISOLM, Federal Circuit Guide, Pg. 1221).

"...it must be shown that the reference contains all of the elements of the claims apart from irrelevant or merely extraneous variations, and the elements are arranged in the same way to achieve the same result which is asserted to be an inventive function..." 454 U.S. 1129 (1981)

The elements of the claim and their function and purpose within the claim must be reviewed in a manner similar to an infringement analysis. If the device described in the cited reference would not infringe if it was later, it will not anticipate if the reference is earlier.

Applying this standard to the system of the reference Kronestedt it becomes clear that the disclosure of the cited reference is missing significant elements of independent claims 1 and 6. Claim 1 states:

"communicating a request message to the decision-making device, said request message indicating a need for setting up a new radio bearer between the terminal and the base station or changing the characteristics of an existing radio bearer between the terminal and the base station and indicating a certain set of Quality of Service parameters associated with a certain first communication connection,"

and:

"- mapping said set of Quality of Service parameters to a certain first channel coding and/or interleaving scheme as a part of the connection-specific channel coding and/or interleaving scheme allocation made by the decision-making device."

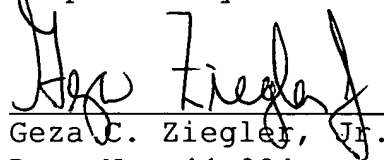
Equivalent language also is contained in claim 6. Since these elements form no part of the system of Kronestedt, there would be no infringement, if Kronestedt was later, therefore, the cited reference does not support the rejection by the Examiner based on anticipation.

The above arguments are equally applicable to the dependent claims 2-5.

In view of the remarks stated above, Applicant submits that all of the claims under consideration contain patentable subject matter and favorable action by the Examiner is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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13 Nov 2003
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